

In this action under the Freedom of Information Act (“FOIA”), the court previously issued an order on July 22, 2010 (the “July 22 Order”) granting in part and denying in part Defendants’ motion for summary judgment. Doc. # 86. In the July 22 order the court granted Defendants leave to file a second motion for summary judgment. Defendants’ second motion for summary judgment was filed on September 13, 2010. Defendants’ second motion for summary judgment was served on Plaintiff on November 3, 2010. On December 17, 2010, Plaintiff filed an unopposed motion for extension of time to file an opposition to the second motion for summary judgment. On December 23, 2010, the court issued an order was filed extending time to file an opposition through and including February 1, 2010. A second motion to extend time, which was filed on December 27, 2010, was denied as being

1 duplicative of the first motion to extend time. No opposition to Defendants' second motion
2 for summary judgment has been received as of this date.

3 Due to the press of business, the court put aside Defendants' motion without noting
4 Plaintiff's failure to timely file an opposition to Defendants' motion for summary judgment.
5 The court cannot delay longer on deciding Defendants' motion. However, recognizing the
6 difficulty in filing and receiving documents that are occasioned by Plaintiff's status as an
7 inmate, the court will provide a final opportunity for Plaintiff to either file an opposition or
8 show cause why the court should not proceed to decide Defendants' motion in the absence of
9 any opposition by Plaintiff.

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11 THEREFORE, it is hereby ORDERED that Plaintiff shall either:

- 12 1. File and serve an opposition to Defendants' second motion for summary judgment; or
13 2. File and serve a brief showing cause why the court should not proceed with
14 determination of Defendants second motion for summary judgment.

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16 Either response shall be filed and served not later than fourteen (14) days from the
17 date of service of this order. The failure of Plaintiff to file either of the above documents
18 shall be taken by the court to signify non-opposition to the court proceeding with the
19 determination of Defendants' second motion for summary judgment without further pleading
20 by Plaintiff.

21 IT IS SO ORDERED.

22 Dated: November 2, 2011

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24 CHIEF UNITED STATES DISTRICT JUDGE
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